



Department of Energy
Richland Operations Office
P.O. Box 550
Richland, Washington 99352

September 22, 2015

CERTIFIED MAIL

Mr. Joseph R. Ward III
The Kullman Firm
P.O. Box 60118
New Orleans, Louisiana 70160

Dear Mr. Ward:

FREEDOM OF INFORMATION ACT REQUEST (FOI 2015-01738)

This letter is in response to your Freedom of Information Act (FOIA) request dated August 10, 2015, that you sent to the Department of Energy (DOE), Richland Operations Office (RL) requesting "any and all documents relating to proposals submitted on behalf of or by HPM Corporation and/or Lockheed Martin to the Department of Energy regarding IT services at the HPMC Occupational Medical Health Services Clinic (then CSC Hanford Occupational Health Services) for the Hanford Site from January 1, 2012, through October 1, 2012. This request specifically includes email communications between HPM Corporation and/or Lockheed Martin and DOE Contracting Officers as well as any updated editions of technical proposals and pricing sheets." Your request was received by this office on August 13, 2015.

In a conversation with me on August 21, 2015, you narrowed the scope of your request to a copy of the proposal submitted by HPMC to DOE in September 2012 for IT services. You stated the proposal was a request to change the contract from a fixed fee (FFP) to a cost reimbursed (CCR) and the proposal was denied by DOE. You also requested a copy of the notification from DOE denying the proposal (you indicated the CO at that time was Mr. Russell Walter and the denial was issued around September 19, 2012.)

I will first address your request for a copy of the proposal submitted to HPMC to DOE. Under the provisions of the FOIA, documents held in government files will be disclosed to the public upon request, with nine specific exemptions. One of those, Exemption 3, incorporates into the FOIA other laws that restrict the availability of information. To qualify under this exemption, a statute must require that information be withheld in such a manner as to leave no discretion to the agency. Under 41 U.S.C. § 253b(m)(1) (currently at 41 U.S.C. § 4702) proposals may not be made available to any person unless the proposal is set forth or incorporated in a contract entered into between the agency and the contractor that submitted the proposal. Since this proposal was unsuccessful it was not set forth nor incorporated by reference into the contract, and is exempt from disclosure.

With respect to the second portion of your request for a copy of the notification from DOE denying the proposal, the requested document is enclosed with deletions pursuant to Exemption 3 as described above. In addition, we deleted a personal cell phone number on page 2 pursuant to Exemption 6 of the FOIA.

Exemption 6 provides that an agency may protect from disclosure all personal information if its disclosure would constitute a clearly unwarranted invasion of privacy by subjecting the individuals to unwanted communications, harassment, intimidation, retaliation, or other substantial privacy invasions by interested parties.

In invoking Exemption 6 we considered 1) whether a significant privacy interest would be invaded by disclosure of information, 2) whether release of the information would further the public interest by shedding light on the operations or activities of the government, and 3) whether in balancing the private interest against the public interest, disclosure would constitute a clearly unwarranted invasion of privacy. We have determined that the public interest in the release of the cell phone number that appears in the document does not outweigh the individual's privacy interests.

The undersigned individual is responsible for this determination. You have the right to appeal to the Office of Hearings and Appeals, as provided in 10 CFR 1004.8. Your appeal shall be filed within 30 days after receipt of this letter. You may submit your appeal by e-mail to OHA.filings@hq.doe.gov, including the phrase "Freedom of Information Appeal" in the subject line. Alternatively, any such appeal may be made in writing to the following address: Director, Office of Hearings and Appeals (HG-1), U.S. Department of Energy, L'Enfant Plaza Building, 1000 Independence Avenue SW, Washington, D.C. 20585-1615. Should you choose to appeal, please provide this office with a copy of your e-mail or letter.

Costs associated with your request are as follows:

Search time – 2 hours @ \$53.56/hour	\$	107.12
Search time – 1.5 hours @ \$46.33/hour		69.50
Reproduction – 2 pages @ \$.05/page		<u>.10</u>
Total	\$	176.72

Your check of \$176.72 should be made payable to the U.S. Department of Energy and forwarded to my attention at the U. S. Department of Energy, P.O. Box 550, Richland, Washington 99352.

Mr. Joseph R. Ward III

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September 22, 2015

If you have any questions regarding your request, please contact me at our address above or on (509) 376-6288.

Sincerely,

-Original Signed By-

Dorothy Riehle
Freedom of Information Act Officer
Office of Communications
and External Affairs

OCE:DCR

Enclosure